

**REMARKS****A. OBVIOUSNESS REJECTIONS**

The four pending independent claims (1, 13, 25, and 33) have been amended by making explicit inherent properties of pari-mutuel systems, and enabling funding for the player-funded progressive from monies collected while enabling RFID-equipped balls for game play (typically registering or dispensing them for game play). As with the previous response to an office action, Applicant makes these changes without disclaimer of claimable subject matter, reserving the right to pursue additional claimable subject matter in future prosecution.

The Examiner stated that a definition of pari-mutuel betting had not been given, then used a quote from a Michigan website that has a single-sentence description of pari-mutuel betting, then stated that in the Examiner's opinion, Vincent (US Patent 5,102,140) taught pari-mutuel betting thereby. Applicant respectfully disagrees for the following reasons.

Applicant believes that pari-mutuel betting, to a person of ordinary skill in the art of implementing pari-mutuel systems, knows that pari-mutuel systems require functional capabilities not taught or disclosed in Vincent. For example, at the least, a pari-mutuel system will have a player-funded pool for a game event (betting event), and upon completion of the event the pari-mutuel system must be able to apportion out the pool amongst all participating players who bet and hit the designated winning event. The apportionment is at least partially (may be fully) based on the amount each player bet, on what they bet, on the amount

each player bets, and the total amount bet for that event or game. Thus, a pari-mutuel system must be able to make the calculations needed to apportion a pool in accordance with the number of winning players who bet, on what they bet, the total amount bet, and how much each winning player bet. Applicant can find no indication of a teaching for pari-mutuel betting in Vincent (as pari-mutuel betting is understood by Applicant, and which Applicant believes is also true for practitioners in the art; Applicant can provide general reference material discussing pari-mutuel betting if so desired by the Examiner). Vincent teaches a single collection of money derived from using his video recording machine at a golf course, where the collected money is further taught to be collectable (winnable) by a single player (3:49-51, also see previous office action response for a more detailed discussion).

Applicant has amended each independent claim to include the inherent ability to make an apportionment of a pool between a plurality of winners by including language about the pari-mutuel system being enabled to determine and distribute winnings from a pool to players that comprises differing bet amounts for a game. Thus, the pari-mutuel system of the presently claimed invention has the ability to determine how to distribute winnings from a pool to a plurality of winners, where wagering players made different bets. Applicant has been unable to find this teaching in the cited prior art.

For the progressive player-funded system of the presently claimed invention, Applicant has included language about player-funding the progressive system by pooling a portion of funds collected as part of enabling RFID-equipped

balls for game play. Vincent does not disclose or teach the ability to fund a progressive pool using a portion of funds collected as part of enabling RFID-equipped balls for game play.

Applicant has been unable to find a disclosure or teaching to each of the claimed elements found in the pending independent claims (1, 13, 25, 33). Further, *arguendo*, even if the elements were to be found Applicant has been unable to find a teaching to combine the elements in the functional relationship claimed. Applicant respectfully requests specific cites to the claimed elements, the functional relationship between elements as claimed, and teachings to combine the elements if they are found in more than one reference.

The OA stated that Applicant had not properly used a citation to 2144.03 in the prior office action. Applicant did not wish to improperly use an MPEP citation, and readily apologizes for any mistake made.

Applicant will restate the concepts found therein as it applies to Applicant. Paraphrasing in applicable part from the initial paragraph of MPEP § 2143: to make a case of obviousness there must be suggestion or motivation in the cites, or in the knowledge available to a person of ordinary skill in this art, to make the claimed combination. This includes the claimed structural relationship between the claimed elements as well as the elements taken alone (elements taken out of context).

In each case of rejecting Applicant's claims, the assertion has been made against Applicant that it would have been obvious to combine the multiple references without cites to a teaching to combine. The reasons given for a

teaching to combine are high level generic statements, that is, the reasons do not address claimed elements but rather an abstract, generic goal such as "in order to reward players with exemplary games" (OA page 3, 1st full paragraph). These types of statements do not contain enough specificity to enable a specific response by Applicant.

Applicant believes the teaching to combine needs to include enough specificity to address the actual elements under discussion, in the manner (functional relationship) claimed in the pending application. Generic, abstract statements are true in all cases. They do not address the claimed elements with any specificity, further, they logically negate the teaching to combine requirement (given an abstract statement that is always true means the teaching to combine is always met, which means the teaching to combine is always true, which means there is no longer a requirement for a teaching).

The MPEP discusses the principle of requiring objective evidence and making specific factual findings to support teachings to combine in § 2143.01, which Applicant believes applies in the presently pending case. Applicant does not think the *prima facie* case for obviousness has been met for the presently pending claims for several reasons, including the needed specificity and objectiveness as to the teaching to combine. Thus Applicant respectfully requests cites to a teaching to combine, or, statements containing enough specificity to address specific elements that have been combined in rejecting Applicant's claims (if the rejections are maintained after this office action).

As neither Helderman nor Vincent disclose the ball-based wagering system of the presently claimed invention, including but not limited to a lack of teaching to the presently claimed pari-mutuel system or the presently claimed progressive system with player-funding, the rejection is respectfully overcome. In addition to the elements and functional relationships between elements not disclosed in either Helderman or Vincent, Applicant is unable to find specific and objective evidence for a teaching to combine the two references.

As each dependent claim inherits the limitations of the independent claim from which it eventually depends, for the same reasons discussed above the presently pending dependent claims are also believed to be in condition for allowance.

Because Applicant believes the presently pending claims are in condition for allowance as discussed above, other issues are specifically not addressed.


**CONCLUSION**

Applicant has made a good faith effort to clarify the issues before the Examiner and to place this case in condition for allowance. Pending independent claims 1, 13, 25 and 33 have been amended to bring forth inherent properties of pari-mutuel systems, and to define a funding source for the player-funded progressive. No new matter has been added.

In view of the foregoing discussions, it is believed that all the pending claims are now in condition for allowance. Therefore, allowance of the pending claims 1-8, 10, 13-20, 22, 26-28, 30, 33, 34, 36, and 39-42 is respectfully requested.

Respectfully Submitted;

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